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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,164	12/22/2003	Edward J. Rupnick	EJR-003	7747

7590
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EXAMINER

WILLIAMS, JAMILA O

ART UNIT

PAPER NUMBER

3722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/743,164

Applicant(s)

RUPNICK, EDWARD J.

Examiner

Jamila O. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-25,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-25,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 35 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by 922,858 to Conley. Conley discloses a substantially rigid elongated support bar (A) structured for supporting an open book thereon crosswise to the spine of the open book with two opposite covers of the spine of the book laying adjacent to the elongated support bar (the support bar of Conley is inherently capable of this function). The support bar of Conley has a substantially planar first and second operating surfaces extending between first and second spaced-apart ends thereof. Conley discloses an elongated resilient elastic retainer (rubber band 3) structured for gripping and holding the pages of an open book supported on the support bar with the pages substantially compressed against respective opposite covers of the open book and holding the covers of the open book substantially compressed against the support bar (the retainer of Conley is inherently capable of this function). The elastic retainer of Conley has first and second ends anchored to the first and second ends of the support bar operating surfaces adjacent the first and second ends thereof with

at least one of the first and second ends of the elastic retainer being releasably so anchored (the retainer 3 is releasably anchored via rivets lines 50-61 of Conley). The elastic retainer being in tension when so anchored to the support bar operating surfaces (lines 74-76 of Conley).

Regarding claim 21, Conley discloses the elastic retainer including anchors on each end of its first and second ends (rivets, figure 1).

3. Claims 36,10,11,14,18 are rejected under 35 U.S.C. 102(b) as being anticipated by 2,645,197 to Jones et al (hereinafter Jones). Jones discloses a substantially narrow and rigid elongated support bar (fig 4) structured for supporting an open book thereon across the spine of the open book with the spine and two opposite covers of the book being arranged adjacent to the elongated bar (the support bar of Jones is inherently capable of this function). The support bar of Jones is formed with two opposing edges spaced across a length of the support bar that is greater than the width thereof (fig 4), the support bar having means for compacting the support bar that consist of means for telescoping a first portion of the support bar relative to a second portion thereof (telescoping sections 14,16). Jones discloses a single resilient elastic retainer (one of the flexible cords 30 satisfy the requirement of a single resilient elastic retainer, see attached definitions for resilient, elastic and flexible) structured for gripping and holding pages of an open book supported on the support bar with the pages retained substantially against both respective opposite covers of the open book (the retainer of Jones is inherently capable of this function). The single retainer of Jones is structured to extend between the two spaced apart

edges of the elongated support bar and having first and second anchors provided adjacent to the respective first and second opposite ends thereof (knots 32 and handles 34 provide the anchors). The anchors being structured to secure the first and second opposite ends of the retainer adjacent to the respective spaced apart edges of the support bar (fig 2).

Regarding claim 10, Jones discloses the support bar being formed of an elongated bar having at least one passage through the elongated bar and positioned adjacent to one of the first and second ends of the bar (passage 36), the elastic retainer is structured to pass through the passage and at least one of the anchors is further structured to be unable to pass through the passage (handle 34 for example).

Regarding claim 11, Jones discloses the support bar comprises at least two spaced apart passages adjacent the respective opposing edges, at least one of the two spaced apart passages further comprises an aperture formed through the thickness of the support bar and communicating the an edge thereof (22).

Regarding claim 14, Jones discloses the support bar being formed of a rectangular plate including the two spaced apart edges (fig 4).

Regarding claim 18, Jones discloses that the means for compacting the support bar is limited to the means for telescoping a first portion of the support bar (14) relative to a second portion thereof (16).

4. Claims 19-20 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by 2002-127642 to Sato. Sato discloses a substantially narrow and rigid support bar structured for supporting an open book thereon across to a spine of the open book

with the spine and two opposite covers of the book being arranged adjacent to the elongated support bar (fig 3). The support bar of Sato has means for compacting the support bar consisting of means for folding the first portion relative to the second portion (fig 2).

Sato discloses a single resilient retainer (elements 4-6 constitute a single resilient retainer, where 4 and 6 are made of elastic band material and 5 is made of transparent vinyl, vinyl being a flexible material satisfies the claimed limitation of the retainer being elastic and resilient, see attached definitions) for gripping and holding pages of an open book supported on the support bar with the pages retained substantially against both respective covers of the open book (fig 3). The single elastic retainer of Sato being structured to extend between the two spaced-apart edges of the elongated support bar and having first and second anchors provided adjacent to respective first and second opposite ends thereof, the anchors being structured to secure the first and second opposite ends of the retainer adjacent to the respective edges of the support bar (there is inherently some type of anchor securing the end of element 4 to the support bar, the second end has anchor 7-8). The anchors of Sato are structured to secure the first and second opposite ends of the retainer adjacent to the respective spaced-apart edges of the support bar (fig 1 and 3).

Regarding claim 20, Sato discloses a substantially rigid elongated support bar, an elongated resilient elastic retainer having first and second ends anchored to the first and second ends of the support bar operating surfaces adjacent the first and second ends thereof (fig 2-3) with at least one of the first and second ends of the elastic retainer

being releasably so anchored (fig 1, hook and loop fasteners 8-9), the elastic retainer being in tension when so anchored to the support bar operating surfaces (fig 2-3).

Regarding claim 25, Sato discloses the means for compacting is limited to the means for folding the first portion of the support bar relative the second portion thereof (fig 3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Conley. Jones discloses all of the elements of the claims as applied to claim 36 but does not disclose the specific material of the support bar. Conley teaches having a metal support member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material of Conley with the support member of Jones for the purpose of making the support bar more durable.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of 6,453,589 to Schwartz. Jones discloses all of the elements of the claims including having first and second anchors on each end of the elastic retainer (32,36). Jones does not however disclose the use of a fabric covered elastic material. Schwartz teaches using a retaining means that is fabric covered (column 4 lines 41-

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42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fabric covered elastic material teaching of Schwartz with the retainer of Jones for the purpose of providing a more durable retainer. Thus providing the elastic material with a slippery contact surface, as recited in claim 15.

8. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones. Jones discloses all of the elements of the claims including having first and second anchors (32,34). Jones does not however disclose that the first and second anchors are knots. In Jones, one of the anchors is a knot and the other is a handle, however it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a knot on the second end of the retainer for the purpose of providing an alternative means of anchoring the retainer to the support member. Jones further discloses having a plurality of anchors formed at the first end (32) and spaced at intervals along the elastic retainer (anchor 34 is spaced at intervals from anchor 32).

9. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conley in view of 4,555,128 to White et al (hereinafter White). Conley discloses all of the elements of the claims as applied to claim 35, including having a passage on the first and second edge portions of the support bar (apertures for rivets) and anchors on the end of the retainer (rivets). Conley does not however disclose that the passages are formed as a slot or that the anchors consist of a crimp-on clip.

White discloses a support bar having a slot on an edge portion and a crimp-on clip on the end of the retaining member for securing the retainer in the slot (fig 5), the slot formed as an aperture passing through the support bar. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the slot and anchor of White with the retainer and support bar of Conley for the purpose of providing better attachment of the retainer to the support bar. Especially since Conley discloses that the means for attaching the retainer to the support bar may be other than rivets as long as they perform the proper function (lines 62-64 of Conley).

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are not persuasive. Regarding the rejections of Conley, in that the structure of the device meets those of the claims it is inherently capable of the claimed functions (of holding a book in an open position and for supporting an open book thereon crosswise to a spine of the open book and for gripping and holding pages of an open book supported on the support bar.

Regarding the argument that elastic band of Conley is unreleasably connected to the bar, the examiner disagrees. Rivets are removable fasteners and therefore would satisfy the claimed limitation of being releasably connected to the bar. Furthermore, if the rivets were not removable a new band would not be able to be replaced as taught in lines 59-65.

Regarding the argument that Jones is not structured for supporting an open book, the examiner disagrees. The structural limitations of the claims are met by Jones and therefore it is inherently capable of holding a book in the manners claimed.

Regarding the argument that Jones does not disclose a resilient elastic retainer, the examiner maintains that to the degree claimed by applicant this structure is satisfied by the cord of Jones (given the broadest interpretation of the definitions of cord and elastic provided in the previous office action).

Regarding the argument that the retainer of Sato does not satisfy the "consisting of" language of the claim. The examiner maintains that the elements 4,5,6 function as a complete retainer and therefore satisfies the requirement of consisting of a single resilient elastic retainer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O. Williams whose telephone number is 571-272-4431. The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JW 12-20-2006



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